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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,953	07/17/2003	Brian Bidlingmeyer	10020542-1	1544

7590 08/15/2005

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
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EXAMINER

THERKORN, ERNEST G

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,953

Applicant(s)

BIDLINGMEYER ET AL.

Examiner

Ernest G. Therkorn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on August 1, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-6,8-14,16 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-14,16 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-14, 16, and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilar (Analytical Biochemistry 298, 196-206 (2001)) in view of A Review of Waters' New Hybrid Particle Technology and Its Use in High Performance Liquid Chromatography (HPLC) 1999 pages 1-4. At best, the claims differ from Gilar (Analytical Biochemistry 298, 196-206 (2001)) in the clarity of reciting use of a silica based support. A Review of Waters' New Hybrid Particle Technology and Its Use in High Performance Liquid Chromatography (HPLC) 1999 pages 1-4 evidences that Gilar (Analytical Biochemistry 298, 196-206 (2001))'s Xterra MS C18 is a silica based support. It would have been obvious that Gilar (Analytical Biochemistry 298, 196-206 (2001))'s Xterra MS C18 is a silica based support because A Review of Waters' New Hybrid Particle Technology and Its Use in High Performance Liquid Chromatography (HPLC) 1999 pages 1-4 evidences that Gilar (Analytical Biochemistry 298, 196-206 (2001))'s Xterra MS C18 is a silica based support.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gilar (Analytical Biochemistry 298, 196-206 (2001)) in view of A Review of Waters' New Hybrid Particle Technology and Its Use in High Performance Liquid Chromatography (HPLC) 1999 pages 1-4 as applied to claims 1-6, 8-14, 16, and 19-24 above, and further in view of Gjerde (U.S. Patent No. 6,524,480). At best, the claim differs from

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Gilar (Analytical Biochemistry 298, 196-206 (2001)) in view of A Review of Waters' New Hybrid Particle Technology and Its Use in High Performance Liquid Chromatography (HPLC) 1999 pages 1-4 in reciting use of isocratic conditions. Gjerde (U.S. Patent No. 6,524,480) (column 32, lines 10-17) discloses that the combination of isocratic and gradient elution enhances resolving power. It would have been obvious to use isocratic conditions in Gilar (Analytical Biochemistry 298, 196-206 (2001)) in view of A Review of Waters' New Hybrid Particle Technology and Its Use in High Performance Liquid Chromatography (HPLC) 1999 pages 1-4 because Gjerde (U.S. Patent No. 6,524,480) (column 32, lines 10-17) discloses that the combination of isocratic and gradient elution enhances resolving power.

The remarks urge patentability based upon the presence of a neutral, polar, fluorinated organic compound. First, a neutral, polar, fluorinated organic compound is not required by the claims because less than 10% reads on zero. Second, use of hexafluoroisopropyl alcohol is disclosed in Gilar (Analytical Biochemistry 298, 196-206 (2001)) on page 200, column 1, the last full paragraph through page 201, the paragraph bridging from page 200.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

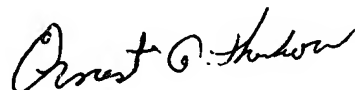
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (571) 272-1149. The official fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ernest G. Therkorn
Primary Examiner
Art Unit 1723

EGT
August 12, 2005